

2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION



MARTIN S. MCLOUTH,

01-71573

Petitioner,

Case Number: 05-CV-71664

v.

HON. NANCY G. EDMUNDS

MICHIGAN DEPARTMENT OF
CORRECTIONS,

FILED

Respondent.

APR 29 2005

CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN MICHIGAN

**OPINION AND ORDER (1) CONSTRUING FILING OF HABEAS PETITION
AS REQUEST TO REOPEN CASE NO. 01-CV-71573, (2) DIRECTING
CLERK OF COURT TO RE-FILE PLEADINGS FILED IN THIS MATTER
UNDER CASE NO. 01-CV-71573, AND (3) STATISTICALLY DISMISSING
CASE NO. 05-CV-71664**

Petitioner Martin S. McLouth is a state inmate currently incarcerated at the Oaks Correctional Facility, in Eastlake, Michigan. He has filed a petition for a writ of habeas corpus, which was assigned to the Honorable David M. Lawson. The case was reassigned to the undersigned, as a companion to Case No. 01-CV-71573, a previously filed habeas corpus petition, which was dismissed without prejudice because Petitioner had not exhausted his state court remedies. In the Opinion and Order Granting Petitioner's Motion to Dismiss Petition for Writ of Habeas Without Prejudice, the Court held that Petitioner could move to reopen the federal habeas corpus proceeding within sixty days of exhausting his state court remedies.

The Court concludes that, by filing this petition, Petitioner intended to move to

reopen the previous habeas corpus proceeding, Case. No. 01-CV-71573. The Court concludes that Petitioner did not intend to initiate a new habeas corpus proceeding. Therefore, the Court **ORDERS** the Clerk of Court to re-file all papers filed in Case Number 05-CV-71664 under Case Number 01-CV-71573. The Court further **ORDERS** that Case Number 05-CV-71664 is dismissed for statistical purposes.

SO ORDERED.

S/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: April 29, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 29, 2005, by electronic and/or ordinary mail.

S/Carol A. Hemeyer
Case Manager